IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1363 of 1988

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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JAHIRMIYA HAMIDMIYA MALEK - Appellant(s)
Versus
MADHABHAI JAGABHAI RAVAL 5 & 4 - Defendant(s)

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Appearance :
MR RAJESH K DESAI for Appellant(s) : 1,
MR PV NANAVATI for Defendant(s) : 1 - 3.
None for Defendant(s) : 4 - 5.

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 02/09/2006

ORAL JUDGMENT

1. By way of this appeal, the appellant has challenged the judgement and award dated 11.09.87 passed by the Motor Accident Claims Tribunal (Main), Nadiad at Nadiad in MACP No. 908 of 1983 whereby the Tribunal has awarded an amount of Rs. 65,150/- payable to the original claimant by the original opponent nos. 1, 2 and 3.

2. The original claimant had filed claim petition claiming compensation to the tune of Rs. 1,00,000/- in respect of the injuries sustained by him on account of

the accident which occurred on 08.05.83 while the original applicant was returning on his motor cycle bearing registration no. GRM 2262 from Bhalada out post. At that time a matador van bearing registration no. GRM 9133 coming from the opposite direction in excessive speed and driven by original opponent no. 1 in a rash and negligent manner dashed with the motor cycle thereby causing injuries to the original claimant. The claim petition came to be filed under the said circumstance. The Tribunal after hearing the parties passed the aforesaid award.

3. Learned counsel for the appellant has contended that though the Tribunal has considered the permanent disability of the body of the appellant as a whole at 18% and thereby calculated the compensation towards future loss of income at Rs. 48,600/-, the same has not been awarded to the appellant. In that view of the matter, learned counsel for the appellant has sought interference in the award.

4. Learned counsel for the respondent has supported the award of the Tribunal but is not able to controvert the aforesaid contention of the appellant.

5. Heard learned counsel for the parties and gone through the award of the Tribunal. The Tribunal in para 24 has considered the monthly income of the appellant at Rs. 1500/- and the disability to be 18%. The Tribunal with the said figures has arrived at the sum of Rs. 48,600/- towards future loss of income. However, the appellant is finally awarded only Rs. 36,450/- towards the future loss of income which is not just and proper. In that view of the matter, the appellant is entitled to an additional sum of Rs. 12,150/- over and above the sum already awarded.

6. In the premises aforesaid, the appeal is allowed accordingly. The appellant shall be entitled to an additional sum of Rs. 12,150/- by way of compensation alongwith running interest at the rate of 6% per annum from the date of application till realization. The award of the Tribunal is modified accordingly. No order as to costs.

(K.S. JHAVERI, J.)

Divya//